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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Miroslav R. Petrov

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SAP/BSTZ

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EXAMINER

NGUYEN, VAN KIM T

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/749,850	Applicant(s) PETROV ET AL.	
	Examiner Van Kim T. Nguyen	Art Unit 2456	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15, 16, 18, 20, 21, 25, 26, 30, 31, 33, 35-37, 39 and 41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15, 16, 18, 20, 21, 25, 26, 30, 31, 33, 35-37, 39 and 41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>April 20, 2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to communications filed on April 20, 2009.

Claims 1-14, 17, 19, 22-24, 27-29, 32, 34, 38 and 40 have been cancelled; thus claims 15-16, 18, 20-21, 25-26, 30-31, 33, 35-37, 39 and 41 remain pending.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 20, 2009 has been entered.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on April 20, 2009 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Amendment

4. Applicant's arguments with respect to claims 15-16, 18, 20-21, 25-26, 30-31, 33, 35-37, 39 and 41 have been considered but are moot in view of the new grounds of rejection.

Specification

5. The disclosure is objected to because of the following informalities: The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code, e.g., see ¶[0031]. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01. Appropriate correction is required.

Claim Objections

6. Claim 39 is objected to because of the following informalities: Claim 39 recites the limitation “The machine-readable medium of claim 38” in line 1, however, claim 38 has been cancelled. In the interest of expediting the prosecution of the case, Examiner will treat the recited limitation as “The machine-readable medium of claim 36” with the expectation the claim will be amended to reflect a proper dependency. Appropriate correction is required.

Claim Rejections - 35 USC § 101

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 36-37, 39 and 41 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 36-37, 39 and 41 are not limited to tangible embodiments. In view of Applicant’s disclosure, specification ¶[0085], the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., flash memory, optical disks, CD-

Art Unit: 2456

ROMs, DVD ROMs, RAMs, EPROMs, EEPROMs, magnetic or optical cards) and intangible embodiments (e.g., propagation media, data signals embodied in a carrier wave). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

To overcome this type of 101 rejection the claims need to be amended to include only the physical computer media and not a transmission media or other intangible or non-functional media, i.e., amending the claims to read "intransitory medium" instead of "readable storage medium".

Claim Rejections - 35 USC § 103

9. Claims 15-16, 20-21, 30-31, 35-37 and 41 are rejected under 35 U.S.C.103(a) as being unpatentable over Viswanath et al. (US 7,206,827), in view of Jung et al (US 6,308,208).

Regarding claim 15, Viswanath discloses a multi-service monitoring system comprising: computer server system having a cluster of application servers (108A-B, Figure 1) communicatively coupled on a computer network (102; Figure 1) to serve applications over the computer network to a plurality of computer clients systems (100, Figure 1), each of the application servers comprising server nodes (col. 7: line 30 – col. 8: line 62), wherein each computer server system including an application server (200, 202; Figures 2-6) having:

an administration service (212, 216, 224; Figure 6) to generate runtime MBeans, each runtime MBean associated with a server node and one or more resources associated with the server node (col. 10: lines 31-67);

a monitor service (212, 216, 224; Figure 6) in communication with the administration service, the monitor service to generate corresponding monitor MBeans, each monitor MBean corresponding to a server node and its associated runtime MBean (listeners 352 may be created

Art Unit: 2456

for each component 350 being generated; col. 10: lines 26-63, col. 13: lines 22-29, col. 17: lines 16-25, and col. 24: lines 1-27).

Viswanath does not explicitly disclose the corresponding monitor MBean arranged in a hierarchical tree structure, each runtime MBean collecting monitoring data for its one or more associated resources and reporting the monitoring data to a corresponding monitor MBean; and each monitor Bean having a resource identifier to identify its corresponding runtime MBean and its one or more associated resources.

Jung discloses the corresponding monitor MBean arranged in a hierarchical tree structure (col. 8: lines 13-39), each runtime MBean collecting monitoring data for its one or more associated resources and reporting the monitoring data to a corresponding monitor MBean (col. 7: line 20 – col. 8: line 13; Figures 6-7); and each monitor Bean having a resource identifier to identify its corresponding runtime MBean and its one or more associated resources (each monitoring cell 52 is uniquely identifiable among other cells; col. 7: lines 1-5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Jung's teaching of adding resource identifiers field in Viswanath's system, motivated by the need of properly managing and monitoring remote resources.

Claims 30 and 36 are rejected under the same basis.

Regarding claim 16, Viswanath-Jung also discloses wherein each computer server system including an application server further having a notification service to generate notifications in response to occurrence of one or more specified events relating to one or more runtime MBeans or one or more monitor MBeans, the notification service providing the notifications to each

Art Unit: 2456

application server in the cluster of application servers (col. 13: lines 41-52, col. 19: lines 4-19, and col. 22: line 12 – col. 23: line 55; Viswanath).

Claims 31 and 37 are rejected under the same basis.

Regarding claim 20, Viswanath-Jung also discloses runtime MBeans include standard runtime MBeans and specific runtime MBeans, the standard runtime MBeans providing one or more predefined standard functions for their associated resources (col. 21: lines 13-29; Viswanath), and the specific MBeans providing one or more resource-specific functions for their associated resources (col. 21: lines 44-48).

Claims 35 and 41 are rejected under the same basis.

Regarding claim 21, Viswanath-Jung also discloses one of the standard functions comprises starting and stopping a resource (col. 20: lines 38-44; Viswanath).

6. Claims 18, 33 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Viswanath-Jung, as applied to claim 15, 30 and 36, respectively above, in view of Ismael et al (US 6,061,721), hereinafter Ismael.

Regarding claim 18, Viswanath-Young does not explicitly disclose a graphical user interface ("GUI") to hierarchically display the monitoring data associated with resources associated with the server nodes based on a hierarchical tree arrangement of the server nodes in a hierarchical tree structure.

Art Unit: 2456

Ismael teaches beans are reusable software component which can be manipulated visually by GUI builder or Graphical user interface (col. 2: lines 23-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the well known GUI builder taught by Ismael in the system of Viswanath-Jung, in order to manipulate the software commands easier using the virtually builder tools.

Claims 33 and 39 are rejected under the same basis.

10. Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Viswanath-Jung, as applied to claim 15 above, in view of Haller et al (US 2004/0244001).

Regarding claim 25, Viswanath-Jung does not explicitly call for one of the specified events comprises a resource reaching a first threshold value indicating the resource is available.

Tsun teaches one of the specified events comprises a resource reaching a first threshold value indicating the resource is available (steps 56 and 66; Figure 3, ¶[0024-0025]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Haller's threshold in Viswanath-Jung's system in order to monitor system tasks on the network.

Regarding claim 26, Viswanath-Jung-Haller also discloses one of the specified events comprises the resource reaching a second threshold value representing a critical resource value indicating the resource is not available (steps 58-62; Figure 3, ¶[0024-0025]).

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN KIM T. NGUYEN whose telephone number is (571)272-3073. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Van Kim T. Nguyen
Examiner
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Supervisory Patent Examiner, Art Unit 2456